

MESSAGE NO: 1031302

MESSAGE DATE: 01/31/2011

MESSAGE STATUS: Active

CATEGORY: Countervailing

TYPE: LIQ-Liquidation PUBLIC ☒

NON-PUBLIC ☐

SUB-TYPE: OUTSCO-Out of Scope

FR CITE:

FR CITE DATE:

REFERENCE
MESSAGE #
(s):

CASE #(s): C-570-923

EFFECTIVE DATE: 02/25/2008

COURT CASE #:

PERIOD OF REVIEW:

TO

PERIOD COVERED:

TO

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: COUNTERVAILING DUTY SCOPE RULING ON RAW FLEXIBLE MAGNETS FROM THE PEOPLE'S REPUBLIC OF CHINA (C-570-923)

1. COMMERCE RECEIVED A SCOPE RULING REQUEST FROM MEDICAL ACTION INDUSTRIES INC. (MAI). COMMERCE ISSUED A FINAL SCOPE RULING ON 01/11/2011 THAT MAI'S SURGICAL INSTRUMENT DRAPE IS NOT WITHIN THE SCOPE OF THE COUNTERVAILING DUTY ORDER ON RAW FLEXIBLE MAGNETS FROM THE PEOPLE'S REPUBLIC OF CHINA (C-570-923). MAI'S SURGICAL INSTRUMENT DRAPE IS APPROXIMATELY 12 INCHES BY 16 INCHES IN SIZE. IT CONSISTS OF A SHEET OF TRANSLUCENT PLASTIC FILM SEALED TO AN OPAQUE SHEET OF PLASTIC FOAM. THERE ARE 24 RECTANGULAR FLEXIBLE MAGNETS HERMETICALLY SEALED BETWEEN THE SHEETS OF PLASTIC. THE MAGNETS ARE ARRANGED IN THREE ROWS OF EIGHT MAGNETS EACH.
2. COMMERCE DETERMINED THAT MAI'S SURGICAL INSTRUMENT DRAPE IS NOT WITHIN THE SCOPE OF THE ORDER BECAUSE IT CONSISTS OF AN INTEGRATED PRODUCT CONTAINING OTHERWISE RAW FLEXIBLE MAGNETS THAT HAVE BEEN AUGMENTED TO EXPAND THEIR CAPABILITIES AND ADVANCE THEIR FUNCTION BEYOND THAT OF A RAW FLEXIBLE MAGNET. THE PRODUCT IS A SURGICAL INSTRUMENT DRAPE, NOT A RAW FLEXIBLE MAGNET. THE FUNCTIONS OF THE DRAPE ARE SPECIFICALLY DESIGNED TO MEET THE NEEDS OF THE SURGICAL ENVIRONMENT. IT IS STERILIZABLE, IT FORMS TO ENVIRONMENTAL CONTOURS, ITS FOAM BACKING LAYER IS SKID-RESISTANT, AND IT HOLDS FERROUS SURGICAL INSTRUMENTS MAGNETICALLY. THESE CHARACTERISTICS RENDER THE DRAPE A DIFFERENT PRODUCT FROM A RAW FLEXIBLE MAGNET SUBJECT TO THE ORDER. THEREFORE, MAI'S SURGICAL INSTRUMENT DRAPE IS NOT WITHIN THE SCOPE OF THE COUNTERVAILING DUTY ORDER ON RAW FLEXIBLE MAGNETS FROM THE PEOPLE'S REPUBLIC OF CHINA.
3. EFFECTIVE 02/25/2008, TERMINATE SUSPENSION AND LIQUIDATE ALL UNLIQUIDATED ENTRIES OF THE SURGICAL INSTRUMENT DRAPE DESCRIBED ABOVE WHICH WERE ENTERED, OR WITHDRAWN FROM WAREHOUSE FOR CONSUMPTION.

4. REFUND ANY CASH DEPOSITS WITH INTEREST AND RELEASE ANY BONDS RELATING TO THE SURGICAL INSTRUMENT DRAPE DESCRIBED ABOVE.
5. THESE INSTRUCTIONS CONSTITUTE NOTICE OF THE LIFTING OF SUSPENSION OF LIQUIDATION OF ENTRIES OF THE SURGICAL INSTRUMENT DRAPE DESCRIBED ABOVE ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION ON OR AFTER 02/25/2008.
6. THE ASSESSMENT OF COUNTERVAILING DUTIES BY CBP ON SHIPMENTS OR ENTRIES OF THIS MERCHANDISE IS SUBJECT TO THE PROVISIONS OF SECTION 778 OF THE TARIFF ACT OF 1930. SECTION 778 REQUIRES THAT CBP PAY INTEREST ON OVERPAYMENTS OR ASSESS INTEREST ON UNDERPAYMENTS OF THE REQUIRED AMOUNTS DEPOSITED AS ESTIMATED COUNTERVAILING DUTIES. THE INTEREST PROVISIONS ARE NOT APPLICABLE TO CASH OR BONDS POSTED AS ESTIMATED COUNTERVAILING DUTIES BEFORE THE DATE OF PUBLICATION OF THE COUNTERVAILING DUTY ORDER. INTEREST SHALL BE CALCULATED FROM THE DATE PAYMENT OF ESTIMATED COUNTERVAILING DUTIES IS REQUIRED THROUGH THE DATE OF LIQUIDATION. THE RATE AT WHICH SUCH INTEREST IS PAYABLE IS THE RATE IN EFFECT UNDER SECTION 6621 OF THE INTERNAL REVENUE CODE OF 1954 FOR SUCH PERIOD.
7. FOR ALL OTHER SHIPMENTS OF RAW FLEXIBLE MAGNETS FROM THE PEOPLE'S REPUBLIC OF CHINA NOT DESCRIBED IN PARAGRAPHS #1 AND #2 ABOVE, YOU SHALL, UNLESS OTHERWISE INSTRUCTED, CONTINUE TO COLLECT CASH DEPOSITS OF ESTIMATED COUNTERVAILING DUTIES FOR THE MERCHANDISE AT THE CURRENT RATES.
8. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CBP OFFICERS, THE IMPORTING PUBLIC OR INTERESTED PARTIES, PLEASE CONTACT DAVINA HASHMI OR RON TRENTAM AT THE OFFICE OF AD/CVD OPERATIONS, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, AT (202) 482-0984 OR (202) 482-3577 RESPECTIVELY (GENERATED BY O5:MR).
9. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

MICHAEL B. WALSH

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party